

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 658

Introduced by Senator Hill

February 27, 2015

An act to amend Section 1714.21 of the Civil Code, and to amend Section 1797.196 of the Health and Safety Code, relating to automated external defibrillators.

LEGISLATIVE COUNSEL'S DIGEST

SB 658, as amended, Hill. Automated external defibrillators.

Existing law exempts from civil liability any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an automatic external defibrillator (AED) at the scene of an emergency, except in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment. Existing law also exempts from civil liability a person or entity that acquires an AED for emergency use, a physician who is involved with the placement of the AED, and any person or entity responsible for the site where the AED is located if specified conditions are met, including maintenance and regular testing of the AED and having a written plan that describes the procedures to be followed in case of an emergency that may involve the use of the AED.

This bill would remove the conditions required for the exemption from civil liability of a person or entity that acquires an AED for emergency use and any person or entity responsible for the site where the AED is located. *The bill would provide an exemption from civil liability for a physician and surgeon or other health care professional that is involved in the selection, placement, or installation of an AED.*

The bill would require a person or entity, *other than a health facility as defined*, that acquires an AED to, among other things, comply with specified regulations for the placement of the device and ensure that the AED is maintained and annually tested. *The bill would also specify that a medical director or physician and surgeon is not required to be involved in the acquisition or placement of an AED.* The bill would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1714.21 of the Civil Code is amended
2 to read:
3 1714.21. (a) For purposes of this section, the following
4 definitions shall apply:
5 (1) “AED” or “defibrillator” means an automated or automatic
6 external defibrillator.
7 (2) “CPR” means cardiopulmonary resuscitation.
8 (b) Any person who, in good faith and not for compensation,
9 renders emergency care or treatment by the use of an AED at the
10 scene of an emergency is not liable for any civil damages resulting
11 from any acts or omissions in rendering the emergency care.
12 (c) A person or entity who provides CPR and AED training to
13 a person who renders emergency care pursuant to subdivision (b)
14 is not liable for any civil damages resulting from any acts or
15 omissions of the person rendering the emergency care.
16 (d) (1) A person or entity that acquires an AED for emergency
17 use pursuant to this section is not liable for any civil damages
18 resulting from any acts or omissions in the rendering of the
19 emergency care by use of an AED.
20 (2) *A physician and surgeon or other health care professional*
21 *that is involved in the selection, placement, or installation of an*
22 *AED pursuant to Section 1797.196 of the Health and Safety Code*
23 *is not liable for civil damages resulting from acts or omissions in*
24 *the rendering of emergency care by use of that AED.*
25 (e) The protections specified in this section do not apply in the
26 case of personal injury or wrongful death that results from the
27 gross negligence or willful or wanton misconduct of the person
28 who renders emergency care or treatment by the use of an AED.

(f) This section does not relieve a manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator of any liability under any applicable statute or rule of law.

SEC. 2. Section 1797.196 of the Health and Safety Code is amended to read:

1797.196. (a) For purposes of this section, “AED” or “defibrillator” means an automated or automatic external defibrillator.

(b) (1) In order to ensure public safety, a person or entity that acquires an AED shall do all of the following:

~~(1)~~

(A) Comply with all regulations governing the placement of an AED.

~~(2)~~

(B) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

~~(3)~~

(C) Ensure that the AED is maintained and annually tested according to the operation and maintenance guidelines set forth by the manufacturer.

(2) A medical director or other physician and surgeon is not required to be involved in the acquisition or placement of an AED.

(c) (1) When an AED is placed in a public or private K–12 school, the principal shall ensure that the school administrators and staff annually receive a brochure, approved as to content and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED. The principal shall also ensure that similar information is posted next to every AED. The principal shall, at least annually, notify school employees as to the location of all AED units on the campus. The principal shall designate the trained employees who shall be available to respond to an emergency that may involve the use of an AED during normal operating hours. As used in this subdivision, “normal operating hours” means during the hours of classroom instruction and any school-sponsored activity occurring on school grounds.

(2) This section does not prohibit a school employee or other person from rendering aid with an AED.

1 (d) A manufacturer or retailer supplying an AED shall provide
2 to the acquirer of the AED all information governing the use,
3 installation, operation, training, and maintenance of the AED.

4 (e) A violation of this section is not subject to penalties pursuant
5 to Section 1798.206.

6 (f) Nothing in this section or Section 1714.21 of the Civil Code
7 may be construed to require a building owner or a building manager
8 to acquire and have installed an AED in any building.

9 (g) For purposes of this section, “local EMS agency” means an
10 agency established pursuant to Section 1797.200.

11 (h) *This section does not apply to facilities licensed pursuant*
12 *to subdivision (a), (b), (c), or (f) of Section 1250.*